

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION CORPORATION, Plaintiff-Applicant, v. BERNARD L. MADOFF INVESTMENT SECURITIES LLC, Defendant.	Adv. Pro. No. 08-01789 (SMB) SIPA LIQUIDATION (Substantively Consolidated)
In re: BERNARD L. MADOFF, Debtor.	
IRVING H. PICARD, Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff, Plaintiff, v. SAGE ASSOCIATES, <i>et al.</i> , Defendants.	Adv. Pro. No. 10-04362 (SMB)
IRVING H. PICARD, Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff, Plaintiff, v. SAGE REALTY, <i>et al.</i> , Defendants.	Adv. Pro. No. 10-04400 (SMB)

**DECLARATION OF ANDREW B. KRATENSTEIN IN SUPPORT OF MOTION
IN LIMINE TO EXCLUDE THE TRUSTEE'S EXPERT REPORTS, FBI 302
STATEMENT, AND TESTIMONY OF SPECIAL AGENT THEODORE CACIOPPI**

ANDREW B. KRATENSTEIN, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a partner of the firm of McDermott Will & Emery LLP, attorneys for defendants Defendants Sage Associates, Sage Realty, Malcolm H. Sage, Martin A. Sage, and Ann M. Sage Passer (collectively, the “Sages”) in the above-captioned matters. I am familiar with the facts of this case and submit this declaration in support of the Sages’ motion *in limine* to exclude the expert reports of Bruce Dubinsky, Matthew Greenblatt, and Lisa Collura as well as the Federal Bureau of Investigation 302 Statement prepared by Special Agent Theodore Cacioppi, dated December 18, 2008, and Special Agent Cacioppi’s testimony.

2. Attached hereto as Exhibit A is a true and complete copy of Judge Katherine B. Forrest’s Guidelines Regarding the Appropriate Use of 302 Forms in Criminal Trials, dated June 11, 2018.

3. Attached hereto as Exhibit B are excerpts of the deposition of Bernard L. Madoff, taken on November 9, 2017.

4. Attached hereto as Exhibit C is a true and complete copy of a redacted FBI 302 Statement, prepared by FBI Special Agent Theodore Cacioppi, transcribed on December 18, 2008, marked as Exhibit 20 at the November 9, 2017 session of Bernard L. Madoff’s deposition.

5. Attached hereto as Exhibit D is a true and complete copy of a redacted FBI 302 Statement, prepared by FBI Special Agent Theodore Cacioppi, transcribed on December 18, 2008, which appears to have been produced to counsel to Plaintiff Irving H. Picard (the “Trustee”) by the United States Department of Justice under cover of letter dated February 15, 2019.

6. Attached hereto as Exhibit E is a true and complete copy of a letter dated February 15, 2019, from Arastu K. Chaudhury, Assistant United States Attorney, to Fernando A. Bohorquez, Jr. of Baker Hostetler LLP, counsel to the Trustee.

Dated: October 14, 2020
New York, New York

/s/Andrew B. Kratenstein
Andrew B. Kratenstein